



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FF

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenants under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement and recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Tenants, who provided affirmed testimony. The Landlord did not attend. The Tenants were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Tenants testified that the Notice of Hearing and documentary evidence were sent to the Landlord on November 21, 2018, by registered mail. The Tenants submitted a copy of the registered mail receipt in support. The Tenant provided a copy of the Two Month Notice to End Tenancy dated July 12, 2018 (the “Two Month Notice”), which contains the Landlord’s address as confirmation. In addition, the Tenants submitted the results of a Land Title Search reconfirming the Landlords address for service. Pursuant to sections 88 and 90 of the Act, documents served in this manner are deemed to be received 5 days later.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure. However, I refer only to the relevant facts and issues in this decision.

Issue(s) to be Decided

Are the Tenants entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement and recovery of the filing fee pursuant to sections 51, 67 and 72 of the Act?

Background and Evidence

K.M. testified that the tenancy began on January 21, 2015. K.M. stated that rent in the amount of \$1,100.00 was due to the Landlord by the first day of each month. K.M. testified that a security deposit in the amount of \$550.00 was paid to the Landlord. A tenancy agreement between the parties was submitted by the Tenants in support.

K.M. stated that on July 13, 2018, she received a Two Month Notice from the Landlord, stating all the conditions for the sale of the rental unit have been satisfied and the purchaser asked the Landlord, in writing to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit. The Two Month Notice dated July 12, 2018, has an effective vacancy date of September 30, 2018. The Tenants submitted a copy into documentary evidence in support.

K.M. testified that the Tenants found a new rental unit and moved out on August 19, 2018, in compliance with the Two Month Notice. K.M. testified that the Landlord returned their security deposit at the end of their tenancy. However, the Tenant stated that the Landlord posted the rental unit for re-rental online on October 19, 2018. A copy of the Craigslist add was submitted in support. As a result, K.M. stated that the Two Month Notice was served on the Tenants in bad faith as neither the Landlord nor their close family member intended in good faith to occupy the rental unit. Further to this, the Tenants are seeking compensation in the amount of twelve month's rent pursuant to section 51 of the *Act* as neither the Landlord nor their close family member occupied the rental unit for at least six months beginning within a reasonable period after the effective date of the Two Month Notice.

The Landlord did not attend the hearing to provide any evidence or testimony for my consideration.

Analysis

Section 51(2) of the *Act* states that in addition to the amount payable under subsection one, if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or the rental unit is not used for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice, the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent to 12 times the monthly rent payable under the tenancy agreement.

I accept the Tenants undisputed testimony that rent was \$1,100.00 and that neither the Landlord nor their close family member ever intended to occupy the rental unit. I also accept the Tenants undisputed testimony that neither the Landlord nor their close family

member occupied the rental unit for at least six months beginning within a reasonable period after the effective date of the notice as the Tenants submitted documentary evidence that the Landlord placed the rental unit up for re-rental after the Two Month Notice was served on Tenants.

Based on the above the Tenants are entitled to \$13,200.00 in compensation from the Landlord, pursuant to section 51(2) of the *Act*. As the Tenants were successful in their application, I also find that they are entitled to the recovery of the \$100.00 filing fee pursuant to section 72 of the *Act*. As a result of the above and pursuant to section 67 of the *Act*, the Tenants are therefore entitled to a Monetary Order in the amount of \$13,300.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Tenants a Monetary Order in the amount of \$13,300.00. The Tenants are provided with this Order in the above terms and the Landlord must be served with this Order as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 20, 2019

Residential Tenancy Branch